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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/586,659 | 08/26/2008 | Mitsuharu Ohki | 09812.0113 | 7349 |
| 22852 | 7590 | 02/17/2010 | | |
| FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413 | | | EXAMINER PETERSON, CHRISTOPHER K | |
| | | | ART UNIT 2622 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/586,659

Applicant(s)

OHKI, MITSU HARU

Examiner

CHRISTOPHER K. PETERSON

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims 1 - 4, 19 and 20, drawn to a control method provided for a photographing apparatus as a control method having a first mode for generating an output image by taking one input image and a second mode for generating an output image by taking a plurality of input images successively.

Group II, claims 5 - 10, drawn to further included a second determination step of producing a result of determination as to whether or not said second exposure time is equal to or shorter than a second threshold value if said determination result produced at said first determination step indicates that said first exposure time is neither equal to nor shorter than said first threshold value.

Group III, claims 11 - 16, drawn to specify the pixels of the plural sheets of input images to be used for estimating the pixel values of every positions of the pixels of the output image, thereby to estimate the pixel values at the

positions of the individual pixels of the output image on the basis of the pixel values of the pixels of the plural sheets of the input images.

Group IV, claims 17, drawn to a decision step of deciding whether or not the second exposure time is at or more than the threshold value based on the proper exposure time determined from the brightness of the object.

Group V, claims 18, drawn to a decision step of deciding whether or not the second exposure time is at or more than the threshold value based on the photographic interval of the fastest sequential photographing time in the photographic device.

The inventions listed as Groups I, II, III, IV, V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Group I has the special technical feature of a control method provided for a photographing apparatus as a control method having a first mode for generating an output image by taking one input image and a second mode for generating an output image by taking a plurality of input images successively which Groups II -V do not include. Group II has the special technical feature of a second determination step which Groups I and III - V do not include. Group III has the special technical feature of a specify the pixels of the plural sheets of input images to be used for estimating the pixel values of every positions of the pixels of the output image, thereby to estimate the pixel values at the positions of the individual pixels of the output image on the basis of the

pixel values of the pixels of the plural sheets of the input images which Groups I, II, IV, and V do not include. Group IV has the special technical feature of a decision step of deciding whether or not the second exposure time is at or more than the threshold value based on the proper exposure time determined from the brightness of the object which Groups I - III, and V do not include. Group V has the special technical feature of a decision step of deciding whether or not the second exposure time is at or more than the threshold value based on the photographic interval of the fastest sequential photographing time in the photographic device which Groups I - IV do not include. Therefore there is no unity of invention as per PCT Rule 13.1.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER K. PETERSON whose telephone number is (571)270-1704. The examiner can normally be reached on Monday - Friday 6:30 - 4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Sinh can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. K. P./
Examiner, Art Unit 2622
2/4/2010

/Sinh Tran/
Supervisory Patent Examiner, Art Unit 2622